

**MINUTES OF REGULAR MEETING
ILLINOIS GAMING BOARD
June 30, 2000
CHICAGO, ILLINOIS**

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

The Illinois Gaming Board held its Regular Meeting on June 30, 2000. The Board first met in the conference room of the Gaming Board Offices on the 3rd floor at 160 N. LaSalle, for closed session.

The following Board Members were present: Gregory C. Jones, Chairman; and Members, Joseph A. Lamendella, Stuart P. Levine, Sterling M. Ryder, and Staci M. Yandle.

Also in attendance were: Administrator Sergio E. Acosta, Special Counsel to the Board Robert F. Casey, Chief Legal Counsel Mareile Cusack, Deputy Administrators Joseph Haughey, Allan McDonald, Thomas Swoik and James W. Wagner, Deputy Chief Legal Counsel Jeannette Tamayo, other members of the staff and outside counsels, Robert Shapiro and Richard Saldinger.

Chairman Jones called the meeting to order at 9:40 a.m. in the 3rd floor Board conference room. Member Lamendella moved **that the Board retire to Closed Session pursuant to Section 2(c), paragraphs (1), (4), (11), (14) and (21) of the Open Meetings Act, to discuss the following subject matters:**

- 1. Issues Concerning Applicants and Licensees**
- 2. Recommendations of Administrative Law Judges**
- 3. Pending Litigation and Matters Involving Probable Litigation**
- 4. Investigatory Matters**
- 5. Personnel Matters**
- 6. Closed Session Minutes**

Member Ryder seconded the motion. The Board adopted the motion by unanimous consent. The member of the public was asked to leave so that the Board could commence its closed session discussion. The Board then retired to Closed session.

The Board convened its Open Session at 1:10 P.M in the 9th floor Auditorium of the James R. Thompson Center, Chicago, Illinois.

Chairman Jones stated that due to flight schedules, some items on the agenda would be cancelled and the remaining items might be read out of order.

Dissemination of Closed Session Minutes

Member Ryder moved that **all portions of the closed session minutes of Illinois Gaming Board from October 22, 1999 through and including January 19, 2000, for which the need for confidentiality no longer exists, be made available for public inspection in accordance with the Open Meetings Act.** Member Lamendella seconded the motion. The Board approved the motion unanimously by voice vote.

Chairman's Report

Chairman Jones stated that after the Board's Special meeting on May 3, 2000, staff was directed to research what other states are doing to address the problem of compulsive gambling. Chairman Jones stated that during the month of June, a draft proposal of the Self Exclusion Policy has been circulated to the Board members for their review and input. Chairman Jones stated that the proposed Self Exclusion Policy would enable any person who voluntarily acknowledges that he/she has a gambling problem to be permanently excluded from all riverboats in Illinois; only after voluntarily completing forms requesting that his/her name be placed on the Self Exclusion list. Chairman Jones stated that the Board looks forward to discussing this proposal at the July meeting.

Chairman Jones announced with great regret the departure of Chief Legal Counsel, Mareile Cusack. Chairman Jones stated that Ms. Cusack has been an outstanding attorney and good friend to all of the Board members. Chairman Jones stated that Ms. Cusack is leaving the Gaming Board to spend more time with her family. Chairman Jones personally thanked Ms. Cusack for her service to the Illinois Gaming Board, during which she has proven a source of great knowledge, experience and wisdom. Chairman Jones presented Ms. Cusack with a letter of appreciation for her years of service to the state from Governor Ryan, as well as a gift from the Gaming Board.

Ms. Cusack thanked the Board for having the confidence in her, and stated that serving the Board has truly been an honor.

Member Ryder stated that it has been a great pleasure working with Ms. Cusack.

Member Ryder addressed the issue concerning a petition for Leave to Appeal, which was filed by the village of Rosemont, Emerald Casino, Inc. and West Central Municipal, pursuant to Rule 315 with the Supreme Court and characterized as an answer to plaintiff's petition for Leave to Appeal. Member Ryder read a sentence from a copy of the petition that he had in his possession which was related to Lake County's petition for appeal. Member Ryder stated that to the best of his knowledge, the question of whether or not the Board agrees with the petition has never been brought to the Board. Member Ryder stated that he was shocked that

the Gaming Board was included in the petition and that he is sure this was a technical oversight. Member Ryder stated that the lawyers who were mentioned in the petition should take action to see that it is corrected.

Member Yandle stated that she has found the service and work that Ms. Cusack has provided to the agency and Board to be invaluable and exemplary. Member Yandle stated that she is saddened by Ms. Cusack's departure and she wishes Ms. Cusack well.

Member Lamendella stated that he respects Ms. Cusack on a professional and personal level and he will miss Ms. Cusack.

Administrator's Report

Administrator Sergio Acosta thanked Ms. Cusack personally and publicly. Mr. Acosta stated that Ms. Cusack has been a rock, as well as a good friend, since he has joined the Gaming Board staff. Mr. Acosta stated that over the years, he has had the pleasure of working with some outstanding lawyers, and Ms. Cusack is right up there with the best of them.

Owner Licensee Items

EMPRESS CASINO – Administrator Sergio Acosta recognized the hard work and efforts of various Gaming Board staff members and the extraordinary assistance the Gaming Board has received from other jurisdictions.

Mr. Acosta stated that on November 30, 1999, the Board approved the acquisition of Empress Casino by Horseshoe and expressed concerns. Among the requirements established by the Board were the completion of the investigation and the approval of all Key Persons of Horseshoe. Mr. Acosta stated that, during that time, Mr. Jack Binion was a Key Person of Horseshoe and continues to be a Key Person today. Mr. Acosta stated that, prior to November 30, 1999, the staff conducted a detailed investigation into Mr. Binion's background, which continued after November 30, 1999. Mr. Acosta stated that during the course of the investigation, staff has been in contact with Mr. Binion's attorneys regarding matters that have come to staff's attention. Mr. Binion's attorneys have provided staff with documentary evidence and written explanations. Mr. Acosta stated that staff has obtained, reviewed and analyzed many pages of documents, interviewed numerous witnesses including Mr. Binion on two occasions, and carefully considered all matters brought to the Gaming Board's attention by Mr. Binion's representatives. Mr. Acosta stated that the Board has a statutory duty to ensure that all Key Persons of Illinois riverboat licensees are suitable within the meaning of the Illinois Riverboat Gambling Act and the Board's rules. Mr. Acosta stated that through extensive and exhausted background investigations of Mr. Binion's background, the results of the investigations established that Mr. Binion is unsuitable as a Key Person of Empress Casino Joliet. Mr. Acosta stated that this conclusion is based upon evidence regarding Mr. Binion's character, reputation, associations, financial integrity, business practices and history of regulatory compliance issues in Nevada, Louisiana and Illinois. Mr. Acosta stated that, in addition, the staff's investigation has developed evidence that since the acquisition in December 1999 of Empress Joliet by Horseshoe, Empress has engaged in a

variety of questionable business practices, which ultimately undermine the integrity of gaming in Illinois. Mr. Acosta stated that based on the staff's careful consideration of all evidence developed during the course of the investigation, it is the staff's recommendation that the Board find Mr. Binion unsuitable as a Key Person of Empress Casino Joliet. Mr. Acosta also stated that pursuant to Sections 7(b) (1) and 7 (g) of the Act and Board Rule 3000.236, the license of Empress Casino Joliet should not be renewed.

Member Yandle moved that, **pursuant to Sections 5(b)(1), 7(a), 7(b) and 7(g) of the Riverboat Gambling Act and Board Rule 3000.236, the Board enter an initial decision to deny the Empress Casino Joliet's application for renewal of its owner's license.**

The decision to deny Empress Casino Joliet's application for renewal of its license is based upon the Board's preliminary findings that Jack Binion and Empress Casino Joliet have failed to establish by clear and convincing evidence that they have met the standards set forth under Sections 7(a), 7(b), and 7(g) of the Act and the Board rules.

Member Yandle further moved that **the Board direct the Administrator to issue a written Notice of Denial of license renewal to Empress Casino Joliet.**

Pursuant to Section 10-65 of the Administrative Procedure Act, Empress Casino Joliet's license shall continue in effect until the Board enters a final agency decision on the application at the conclusion of an administrative hearing, should Empress make an appropriate and timely request for such a hearing in full accordance with Board Rule 3000.405. In the event that Empress fails to make an appropriate and timely request as specified in Board Rule 3000.405 for a hearing within 5 days of delivery of the written Notice of Denial, this action of the Board shall become the final action of the Board denying the Owner licensee's application for renewal. Member Ryder seconded the motion. The Board approved the motion unanimously by voice vote.

EMERALD CASINO - Ms. Cusack provided a legal analysis of the extent of the Board's discretion under Section 11.2(a) of the Riverboat Gambling Act. Ms. Cusack stated that in examining Section 11.2 (a) of the Act, two different interpretations could be reasonably given to the meaning of the section.

Member Lamendella agreed with Ms. Cusack's point of view and recited Section 5(a) of the Riverboat Gambling Act.

Member Lamendella moved that, **for the reasons stated by the Chief Legal Counsel, the Board formally adopt an interpretation of Section 11.2 of the Act which authorizes Emerald Casino to apply for renewal and relocation of its license, and leaves it to the**

discretion of the Board to determine whether the license should be renewed, and the location of the license. Member Yandle seconded the motion. Member Ryder requested a discussion on the motion.

Member Ryder stated that he respectfully disagrees with Chief Legal Counsel Mareile Cusack and Member Lamendella because he believes that the statute is crystal clear with respect to mandating the Board's approval of the renewal and the relocation to the agreed upon site. Member Ryder requested a roll call vote. Chairman Jones voted "yes", Member Yandle voted "yes", Member Ryder voted "no", Member Levine voted "yes" and Member Lamendella voted "yes". The motion passed 4-1.

SOUTHERN ILLINOIS RIVERBOAT CASINO CRUISES – Mike Crider, General Manager of Southern Illinois Riverboat Casino Cruises, stated that SIRCC has submitted a plan for capital improvements of approximately forty million dollars to upgrade its facilities in Metropolis, and is requesting initial consideration. Mr. Crider stated that a more detailed presentation would be provided at the next Board meeting.

Public Commentary

Mr. Tom Grey, Executive Director for the National Coalition Against Legalized Gambling, stated that for ten years he has followed the Board and believed that, if there was going to be gambling, it must be regulated. Mr. Grey stated that he appreciates and respects the Board's willingness to step up to the plate and take a strong stand on regulating the casino industry.

Rule making

Chief Legal Counsel Mareile Cusack stated that a series of rules were provided to the Board members that were proposed during the First Notice period. Ms. Cusack stated that, based upon comments received, staff would like to withhold Board Rule 3000.930, which pertains to the sale of alcohol and move forward with all of the other rules which are being proposed. Member Levine moved that **the Board approve the Second Notice filing of the following proposed rules with the Joint Committee on Administrative Rules:**

- **The proposed revisions to Rules 3000.115, 3000.636, 3000.1000 and 3000.1010**
- **The proposed new Rule 3000.237.**

Member Levine further moved that **the Board authorize the final adoption and publishing of the above-referenced rules, provided no material changes are made to these rules during the Second Notice process.** Member Lamendella seconded the motion. The Board approved the motion unanimously by voice vote.

Occupational Licensees

Member Lamendella moved that **the Board approve 142 applications for an Occupational License, Level 2, and 431 applications for an Occupational License, Level 3 and deny 2 applications for an Occupational License Level 2 and 0 for an Occupational License Level 3.** Further, Member Lamendella moved that **the Board direct the Administrator to contact 8 pending applicants for occupational licenses to notify that applicants that staff has recommended that the Board deny their applications for an occupational license and provide these applicants an opportunity to respond.** Member Yandle seconded the motion. The Board approved the motion unanimously by voice vote.

Administrative Hearings/ALJ Reports

Member Ryder moved that **the Board deny the request for hearing of Raymond Ristich for failure to provide a *prima facie* basis for his hearing request and for failure to meet the requirements of rule 3000.1125 in his hearing request.** Member Levine seconded the motion. The Board approved the motion unanimously by voice vote.

Member Lamendella moved to adjourn. Member Yandle seconded the motion. The Board approved the motion unanimously by voice vote.

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Respectfully submitted,

Monica Thomas
Secretary to the Board